



Family Financial Counselling  
Counsellor Resource  
January 1991

**Alberta**  
CONSUMER AND  
CORPORATE AFFAIRS  
Consumer Financial Services

**Money Management — Budgeting Information**

**Mediation — Self Pool**

**Voluntary Pool Plan**

**Mediation — Extended Counselling**

**Orderly Payment of Debts Consolidation Order**

**Mediation — Settlement**

**Mediation — Compassionate Write-off**

**Bankruptcy**

## ***Introduction to the Counsellor Resource Booklet***

The booklet is intended to serve as a quick reference for those who work with people experiencing financial problems. The information within the booklet outlines the options open to individuals who contact the Family Financial Counselling Program of Alberta Consumer and Corporate Affairs.

The points listed provide a summary of the qualifications for different programs and the steps involved in various approaches to dealing with personal debt situations. The alternative selected by an individual to resolve his or her financial difficulties depends on many factors. The amount of debt involved, the individual's assets, and the individual's ability to repay are central to any repayment plan. The individual's desire to learn effective money management skills and his ability to make the necessary lifestyle changes to regain control of his finances are also key factors.

Information on counselling techniques or the assessment process used to assist individuals in evaluating their personal situation is not included in this booklet. Further details can be obtained by referring to the legislation involved or by contacting any of the offices of Alberta Consumer and Corporate Affairs. Office addresses are listed on the back of this publication.

# Money Management — Budgeting Information

- Client identifies goals
- Client examines current spending patterns and debt situation
- Client identifies areas where changes are needed to meet goals or alters goals
- Client organizes finances to manage debt load and support achieving goals
- Client learns money management skills including:
  - identifying priorities and adjusting spending as necessary
  - setting a realistic budget for expenses
  - planning for non-monthly or irregular annual expenses
  - understanding cash flow control and the use of credit
  - demonstrating responsible banking practises
  - establishing a record-keeping system
  - building a savings plan and emergency fund for the future

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## Money Management — Budgeting Information

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## **Mediation — Self Pool**

- Client and counsellor complete a detailed assessment of the client's income, living expenses, and debt situation
- Client has a good ability to pay debts but needs some help in approaching creditors because of arrears or previous problems with making regular payments
- Client provides consent to release information to creditors
- Counsellor opens a mediation file and assists client in negotiating payment arrangements with creditors which may include slightly reduced payments
- Creditors consent to the proposal
- Client makes direct payment to creditors
- If unsuccessful, may result in client requesting further counselling

## **Mediation — Self Pool**

### **Voluntary Pool Plan**

## **Mediation — Extended Counselling**

## **Orderly Payment of Debts Consolidation Order**

## **Mediation — Settlement**

## **Mediation — Compassionate Write-off**

## **Bankruptcy**



## Voluntary Pool Plan

- Client and counsellor complete a detailed assessment of client's income, living expenses, and debt situation
- Client has reasonable ability to pay but needs help in approaching creditors to set up repayment program
- Client needs help in organizing finances and needs some time to establish a history of regular payments
- Client provides consent to release information to creditors and pays a \$10 fee to open a pool account
- Counsellor sets up a pool plan where the client makes a monthly payment to the pool account
- Counsellor sends a letter to the client's creditors explaining the client's income, living expenses, and debt load
- Counsellor proposes a payment schedule to creditors based on the client's ability to pay and the security held by creditors
- Client usually agrees to return all credit cards and not take on any more debt while the pool plan is operating
- Counsellor may ask creditors to reduce the rate of interest charged on outstanding accounts if circumstances warrant
- Creditors confirm their balances outstanding and consent to the schedule of payments
- Client payments are due by the 20th of each month at the counsellor's office
- Counsellor enters all necessary information on to the computer system which distributes payments to the client's creditors
- Payments are mailed to creditors by the first week of the following month
- Client and creditors receive a monthly statement
- Success of the pool plan depends on the client's ability to make regular payments
- If the client does not make regular payments as set out in the proposal, creditors are free to proceed with collection activities
- Pool plan is intended to be a short-term payment plan
- Clients are encouraged to take over direct payments to creditors after 6 months to one year of regular payments

## Voluntary Pool Plan

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## Mediation — Extended Counselling

- Client has financial problems and is unable to make a repayment proposal to creditors due to circumstances: for example – unemployment, social assistance, illness
- Client needs support in assessing situation and guidance in understanding rights and responsibilities
- Client may need information on legal remedies of creditors and how to keep creditors advised of the situation
- Client may be *execution proof* – creditors may proceed to judgment, but be unable to collect from the client due to the client's low income and exemptions from seizure and garnishee actions
- Client provides consent to release information to creditors if the client wants the counsellor to discuss the client's situation with creditors
- May result in other repayment program if the client's circumstances change

## Mediation — Extended Counselling

### Orderly Payment of Debts Consolidation Order

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## Orderly Payment of Debts Consolidation Order

- Client faces extreme pressure from creditors or legal action such as a garnishee
- Client has an ability to pay debts at a reduced interest rate within 3 to 4 years

$$\text{OPD payment required for 3 year payout} = \$30 \times \frac{\text{amount of debt}}{1000}$$

$$\text{OPD payment required for 4 year payout} = \$23 \times \frac{\text{amount of debt}}{1000}$$

- Client applies to the court for a consolidation order by swearing an affidavit before a commissioner for oaths
- Client pays a \$20 fee
- Client must include all debts on the affidavit
- Creditors are advised of the client's application

### Effect of a consolidation order:

- All debts become judgment debts when the consolidation order is granted by the court
- Interest drops to 5% on all accounts as judgment interest is set by the Interest Act of Canada
- Creditors have the right to rely on any security held (for example — co-signers, vehicles, etc.) but are prevented from taking any further collection steps
- Client must return all credit cards and agree not to take on further debt while on the repayment program
- Counsellor sends a notice to all creditors allowing 20 days to consent or object to client's application
- Grounds for creditor's objection to the court order include:
  - amount of debt listed is incorrect
  - amount of payment set
  - times of payment
- Once the consolidation order is signed by the clerk of the court, the client must make the payments as set on the order
- Client's payments are sent to creditors every 2 months
- Payments to creditors are based on the creditor's percentage of the total debt
- Any change in the consolidation order must be approved by the clerk of the court
- Ten percent is deducted from all payments to creditors as an administration fee
- Consolidation order may be closed in *default* if the client's payments fall 90 days in arrears or if the client takes on further debts over \$500
- If defaulted, creditors may request a certificate of judgment and proceed with collection activities

## Orderly Payment of Debts Consolidation Order

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## Mediation — Settlement

- Client and counsellor complete a detailed assessment of the client's income, living expenses, and debt situation
- Client is unable to maintain regular payments due to limited resources but has access to a lump sum from the sale of unsecured assets, an income tax refund, relatives, etc.
- Client generally has few other assets and the situation is unlikely to improve in the near future
- Client provides consent to release information to creditors
- Counsellor opens mediation file and confirms the availability of funds
- Counsellor contacts the creditors on the client's behalf
- Counsellor presents a written summary of the client's situation and proposes that creditors consider accepting a reduced amount from the client as payment in full satisfaction of their account
- If the creditor agrees to the proposal, written consent to the offer of settlement is provided before the funds are paid out
- If the creditor refuses the settlement offer, the client reconsiders his options
- A counter proposal may be presented
- Client may decide to wait to see if the circumstances improve and then evaluate repayment options
- If the client's situation does not improve the client may discuss an assignment into bankruptcy with a trustee

## Mediation — Settlement

## Mediation — Compassionate Write-off

## Bankruptcy



## Mediation — Compassionate Write-off

- Client and counsellor complete a detailed assessment of the client's income, living expenses, and debt situation
- Client has no payment ability and circumstances appear unlikely to change due to
  - terminal illness
  - age
  - chronic unemployment
- Client provides consent to release information to creditors and the counsellor opens a mediation file
- Counsellor writes to creditors to explain the client's situation and asks for the debt to be written off and collection attempts to cease
- Client may be required to provide a medical report or other documents to send to creditors to verify the circumstances
- Creditors provide written confirmation of agreement to write off the debt and cease collection attempts
- If creditors do not agree to write off their accounts, client may reconsider options such as bankruptcy

## Mediation — Compassionate Write-off

### Bankruptcy





## Bankruptcy

- Client and counsellor complete a detailed assessment of the client's income, living expenses, and debt situation
- Client has considerable amount of debt and limited or no ability to pay
- Client and counsellor discuss all repayment options and if the client can increase income, decrease expenses or sell any available assets to reduce the size of the debt load
- Settlement proposal is not possible due to the client's lack of available assets or funds from outside sources
- Counsellor outlines the basic sequence of events in bankruptcy and exemptions allowed in Alberta
- Counsellor provides the client with a list of bankruptcy trustees or refers the client to the telephone directory listing

### Effect of an assignment into bankruptcy

- Bankruptcy is a legal process where the client assigns all assets (except those allowed by law as exempt) to the trustee
- Client must include all debts on his affidavit making the assignment into bankruptcy
- Process relieves the client of most debts and collection action by creditors stops
- Some debts are not discharged in a bankruptcy such as
  - child support or maintenance
  - debts arising out of fraud
  - necessities of life
  - court fines and penalties
- and may result in creditors continuing collection activity after the client is discharged from bankruptcy
- Client's credit rating is affected because the bankruptcy is a fact which will be reported on the credit bureau file
- Client must provide the trustee with income and expense statements while in the process of bankruptcy
- Surplus income identified by the trustee must be paid in for distribution to creditors as set out in the Bankruptcy Act
- Two tax returns are prepared in the year the client files for bankruptcy. Any refund up to the date of the bankruptcy automatically goes into the bankruptcy estate. A voluntary assignment of any post-bankruptcy refund is usually requested by the trustee.
- Trustee must apply to the courts for the bankrupt's discharge within 3–12 months of the assignment
- A conditional discharge may result where a bankrupt is ordered to pay a certain amount before a discharge is granted



## Alberta Consumer and Corporate Affairs Offices

### **CALGARY 297-5700**

301 Centre 70  
7015 Macleod Trail South  
Box 5880, Postal Station A  
Calgary, Alberta  
T2H 2M9

### **CAMROSE 679-1733**

Aspen Business Park  
4911 - 47 Street  
Camrose, Alberta  
T4V 1J9

### **EDMONTON 427-5782**

3rd Floor, Capilano Centre  
9945 - 50 Street  
Edmonton, Alberta  
T6A 0L4

and

126 Pacific Rim Mall  
9700 - 105 Avenue  
Box 10  
Edmonton, Alberta  
T5H 4J1

### **FORT McMURRAY 743-7231**

Provincial Building  
5th Floor, West Tower  
9915 Franklin Avenue  
Fort McMurray, Alberta  
T9H 2K4

### **GRANDE PRAIRIE 538-5400**

Provincial Building  
10320 - 99 Street  
Box 7  
Grande Prairie, Alberta  
T8V 6J4

### **LETHBRIDGE 381-5360**

300 Professional Building  
740 - 4 Avenue South  
Bag Service 3014  
Lethbridge, Alberta  
T1J 4C7

### **MEDICINE HAT 529-3535**

Provincial Building  
346 - 3rd Street S.E.  
Medicine Hat, Alberta  
T1A 0G7

### **PEACE RIVER 624-6214**

Provincial Building  
9621 - 96 Avenue  
Bag 900, Box 9  
Peace River, Alberta  
T8S 1T4

### **RED DEER 340-5241**

2nd Floor, Provincial Building  
4920 - 51 Street  
Red Deer, Alberta  
T4N 6K8

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